

**STATE OF MICHIGAN
IN THE SUPREME COURT OF THE STATE OF MICHIGAN**

ERIC L. VANDUSSEN,

Case No. 164847

Plaintiff,

v

JACKSON COUNTY 4TH CIRCUIT
COURT JUDGE THOMAS WILSON,

Defendant.

ERIC L. VANDUSSEN
Plaintiff in pro per
P.O. Box 30
Benzonia, MI 49616
(231) 651-9189
ericlvandussen@gmail.com

Hon. Thomas Wilson
Defendant
312 South Jackson Street - 4th Floor
Jackson, MI 49201
517-788-4380
twilson@mijackson.org

**PLAINTIFF ERIC L. VANDUSSEN'S MOTION FOR RECONSIDERATION
OF THIS COURT'S OCTOBER 12, 2022, ORDER**
&
BRIEF IN SUPPORT

Plaintiff Eric L. VanDussen, pursuant to MCR 2.119(F)(3) and MCR 7.311(G), and for the reasons stated in the following Brief in Support, respectfully moves¹ this Honorable Court for reconsideration of its October 12, 2022, Order that denied the relief requested in Plaintiff's EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT.

¹ An affidavit supporting Plaintiff's allegations of fact in this motion is attached as (EXHIBIT 1).

**BRIEF IN SUPPORT OF PLAINTIFF ERIC L. VANDUSSEN'S MOTION FOR
RECONSIDERATION OF THIS COURT'S OCTOBER 12, 2022, ORDER**

INTRODUCTION AND FACTUAL BACKGROUND

As a lay person trying to navigate Michigan's judicial system, Plaintiff has always believed he could depend on the well-established, legal principal that "a court speaks through its written orders ..." *Cassidy v. Cassidy*, 318 Mich. App. 463, 509; 899 N.W.2d 65 (2017), quoting *In re Contempt of Henry*, 282 Mich. App. 656, 678; 765 N.W.2d 44 (2009). See also: *In Michigamme Oil Co. v. Huron Valley Building & Savings Ass'n* (1937), 280 Mich. 12, 14, 273 N.W. 329, 330.

At issue in this case is Defendant's defiance of Michigan Supreme Court Administrative Order 1989-1, which mandates that "[f]ilm or electronic media coverage shall be allowed upon request in all court proceedings" [and a trial judge may only] "... terminate, suspend, limit, or exclude film or electronic media coverage [...] upon a finding, made and articulated on the record in the exercise of discretion, that the fair administration of justice requires such action ..." AO 1989-1(2)(a)(i)&(ii).

On September 20 and 22, 2020, Defendant entered two Orders denying Plaintiff's requests to film and record proceedings in Defendant's courtroom solely because "the proceedings will be broadcasted on YouTube." **(EXHIBIT 2 and 3)**

On September 27, 2022, Defendant held oral arguments regarding Plaintiff's EMERGENCY MOTION FOR RECONSIDERATION OF [Defendant's] SEPTEMBER 20, 2022, ORDER DENYING VANDUSSEN PRODUCTIONS REQUEST FOR FILM AND

ELECTRONIC MEDIA COVERAGE OF COURT PROCEEDINGS.² Defendant orally denied Plaintiff's Emergency Motion for Reconsideration at the conclusion of said oral arguments.

On September 28, 2022, Plaintiff filed with this Court his:

- (1) EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT;³
- (2) BRIEF IN SUPPORT OF EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT;⁴ and
- (3) MOTION UNDER MCR 7.311(E) FOR IMMEDIATE CONSIDERATION OF EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT& BRIEF IN SUPPORT.⁵

On September 29, 2022, Plaintiff ordered expedited transcripts of proceedings held in front of Defendant on September 27, 2022. **(EXHIBIT 4)**

On September 30, 2022, Defendant was personally served with Plaintiff's emergency superintending control complaint that was filed with this Court, along with the brief and the motion for immediate consideration.

On October 5, 2022, Plaintiff filed with this Court his MOTION FOR LEAVE TO FILE

² See: https://drive.google.com/file/d/1_U2aCg_WGLk113qO5LPXc8UA8IyYqctg/view?usp=share_link (last accessed on 11/01/2022)

³ See: https://drive.google.com/file/d/1y3c9nmBqUCjwyrDQeQByVvflSChUTwdk/view?usp=share_link (last accessed on 11/01/2022)

⁴ See: https://drive.google.com/file/d/1eidaBeNk9TJRe5SAawzonYNk2RQjxA-D/view?usp=share_link (last accessed on 11/01/2022)

⁵ See: https://drive.google.com/file/d/18y16xytNQBX1ZlsLeOPEMepAphYsvE6F/view?usp=share_link (last accessed on 11/01/2022)

SUPPLEMENTAL PLEADINGS PURSUANT TO MCR 2.118(E).⁶ Plaintiff's request to file supplemental pleadings was based on (a) Defendant's unconstitutional retaliation against Plaintiff for Plaintiff's attempts to exercise First Amendment protected activities, and (b) Defendant's refusal to comply with MCR 8.115(C)(5), which mandates that "[a]ttorneys, parties, and members of the public may use a portable electronic device in a courtroom to retrieve or to store information (including notetaking), to access the Internet, and to send and receive text messages or information. [...]"

On October 12, 2022, this Court issued an Order in this case indicating, in part, that:

On order of the Court, the motion for immediate consideration is GRANTED. The complaint for superintending control is considered, and relief is DENIED, because the Court is not persuaded that it should grant the requested relief. The motion for leave to file supplemental pleadings pursuant to MCR 2.118(E) is DENIED. **(EXHIBIT 5)**

One day before this Court issued said denial Order, on October 11, 2022, Plaintiff received the two expedited transcripts that Plaintiff had requested of the oral arguments that occurred in front of Defendant on September 27, 2022. **(EXHIBIT 6 & 7)**

The first transcript of Plaintiff's September 27, 2022, oral arguments with Defendant indicate that Defendant threatened to hold Plaintiff "in contempt of court" if Plaintiff filmed the Wolverine Watchmen defendants in the hallway outside of Defendant's courtroom. **(EXHIBIT 6, pg. 4, lines 21-22)** The second September 27, 2022, transcript of Plaintiff's oral arguments with Defendant indicate that Plaintiff argued, in relevant part:

I'd like to address the standard that this Court has to employ when determining whether or not the fair administration of justice requires this Court to prohibit my

⁶ See: https://drive.google.com/file/d/1Ntk5AGzWI87wKcrhSHIjynmZuXOFnXoD/view?usp=share_link (last accessed on 11/01/2022)

camera from recording this monumental trial. The standard is not whether or not this Court is streaming simultaneously on YouTube, which is a much degraded type of file – digital file -- than I’m proposing to utilize, which is a high-definition, 4K video recording equipment with shotgun microphones that picks up excellent audio recording. **(EXHIBIT 7, pg. 6, lines 16-24)**

* * *

[...] Chief Justice Bridget McCormack wrote to the U.S. House Committee on a judiciary on September 24, 2019 regarding cameras being prohibited from federal courtrooms. And the most relevant portion of her letter is her articulation regarding admin -- Administrative Order 1989 -- 1989-1 where she says on page 2 quote, “Michigan sets the standard in its Court Rule” -- which is 1989-1 -- “which puts the burden on those who oppose a camera in the court to make a compelling case on the record as to why a camera should not be allowed.” And camera is plural. [...]

So Admin Order 1989-1 mandates that quote, “The following guidelines shall apply to film or electronic media coverages -- coverage of proceedings in Michigan courts.” You jump down to section 2, sub (a) and then little (i) and it says, “Film or electronic media coverage shall be allowed upon request in all court proceedings.”

And then jump down to double i -- little i -- “A judge may terminate, suspend, limit, or exclude film or electronic media coverage at any time upon a finding made and articulated on the record in the exercise of the discretion that the rule -- that the fair administration of justice requires such action.” And that’s not the -- that’s -- that’s the relevant portion.

So when I submitted my media access request to film today’s hearing and the trial that’s starting October 3rd, [the Court] really issued two orders that just state that this Court is streaming it on YouTube and therefore my requests are being denied. So when you -- you look at the plain language of the Admin Order of 1989-1, it’s clear that that does not satisfy that requirement of articulating how the fair administration of justice would be adversely affected by me having a camera recording these proceedings right now. So -- so that’s my first question.

And then if you jump forward to the -- the additional exhibits that are attached to that supplemental - supplement I provided the Court, the brief portion, I cite *VanDussen versus Court of Appeals*, which is a 2011 order from the Michigan Supreme Court regarding a superintending control complaint that I filed in 2011 against the Court of Appeals. And in that instance, the court remanded it to the Court of Appeals to quote, “We remand this case to the Court of Appeals to articulate -- articulate the reason why quote, ‘the fair administration of justice warrants the denial of plaintiff’s request to film oral arguments on May 10, 4

2011.” And then they ordered the Court of Appeals to issue an order explaining themselves by May 2, 2011, which was shortly before that hearing I was trying to film.

And on May 2, 2011 -- Exhibit 2 in that draft filing -- the Court of Appeals reversed its denial and articulated on the record that -- why they were denying it, because they never articulated why the fair administration of justice would preclude me from filming the Court of Appeals. Exhibit 3 -- in 1995, this individual, Jason 13 Graves (ph) went on trial with a co-defendant for the murder of an individual in Oakland County. And in that case, it went up on appeal and one of the appeal issues was that the trial court had allowed -- in that double homicide proceeding -- the trial court had permitted media to film those murder case proceedings. And at that time -- and that's *People v Graves*, it's an unpublished opinion, it's Westlaw 33451697. It was issued March 30, 1999 and the COA number is 191052.

And the *Graves* court (ph) opined that -- in relevant part -- “--(undecipherable)-- conclude that defendant has failed to establish that the presence of cameras in the courtroom denied him a fair trial.” And then in -- also in relevant part if you jump down a little bit further it says, “Accordingly, we find no abusive discretion by the trial court.” And that was for permitting in a double homicide case, media access of their own cameras in that courtroom.

And then in *Detroit Free Press v Recorder's Court Judge* -- that's Exhibit 5 to that draft brief -- it's unpublished. COA docket number 148956, issued February 11, 1992. That court held in pertinent part, “Generally film -- (undecipherable)-- shall be allowed in all court proceedings. A judge may exclude film media coverage for all the reasons I've previously articulated.” The -- articulate -- then they say, “The trial court has failed to articulate any valid reason for excluding on the record or in the pleadings filed with the court. Prior to the rendering a decision, you should -- that trial court should have considered these different alternatives” -- that they suggested --

THE COURT: Mr. VanDussen, I'm gonna stop you right there because I've already told you that I'm not gonna allow you to film. In the past when I have allowed a camera in here, I have one camera that has a feed for anybody else that wants to pick it up. In this particular matter, I've already made arrangements for -- our IT department's gonna be in here. We're gonna make sure that we've got a camera that covers the attorneys, the defendants, their counsel, that will be a live feed onto YouTube so that -- we've had multiple media entries -- entities -- asking how they can get access. They're all being told that YouTube would be available for them, that it will pick up not only the defendants, prosecution in this matter, counsel. Likewise, a camera will be focused so that it picks up the witnesses on

the bench except for a couple of witnesses that the camera will not be picking up because of their identities.

MR. VANDUSSEN: Has that been articulated in a protective order that's been entered? Cause I have not been able to find that in the register of actions.

* * *

THE COURT: There will be a video feed for all parties that want to observe this proceeding. They will be able to get everything and we're also having this crew come in to set it up so that we're gonna be able to get clear photography of what's going on. Likewise, I don't then have to worry about somebody picking up jurors in this particular matter. If I allow cameras at different places in the courtroom, I have no idea when somebody's gonna pick up a juror as part of their filming. It's not gonna happen in my courtroom. I'm making every effort to provide access for media outlets. Not just your request, but other media outlets, and to be able to observe the proceedings in this matter. And your request is denied. **(EXHIBIT 7, pg. 8, line 4 through pg. 13, line 6)**

STANDARD OF REVIEW

Generally, a motion for reconsideration that merely repeats the same arguments made in prior pleadings will not be granted. The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show that a different disposition will result by correcting the error. MCR 7.311(G), referencing MCR 2.119(F)(3). See also: *Luckow v. Luckow*, 291 Mich. App. 417, 426; 805 N.W.2d 453 (2011).

MCR 2.119(F)(3) "allows the court considerable discretion in granting reconsideration to correct mistakes, to preserve judicial economy, and to minimize costs to the parties." *Kokx v. Bylenga*, 241 Mich App 655, 659; 617 NW2d 368 (2000). The plain language of MCR 2.119(F)(3) does not categorically prohibit a court from granting a motion for reconsideration even if the motion presents the same issues initially argued and decided.

ARGUMENT

Plaintiff's EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT, which was filed in this case, asked this Honorable Court to grant the following relief:

- A. Grant Plaintiff's request for Immediate Consideration and forthwith Issue a Writ of Superintending Control over Defendant that prohibits Defendant from any further noncompliance with Supreme Court Administrative Order 1989-1;
- B. Enter an immediate preliminary injunction that directs Defendant to permit Plaintiff to film and recording Defendant's court proceedings regarding the Musico, Morrison, Bellar trial that is scheduled to commence on October 3, 2022;
- C. Enter an Order to Show Cause why Defendant should not be held in contempt of the Supreme Court for Defendant's blatant refusal to comply with Supreme Court Administrative Order 1989-1;
- D. Issue a Permanent Injunction directing Defendant to cease his practice of issuing arbitrary and capricious denials when media access requests are submitted to film or record Defendant's court proceedings;
- E. Enter an Order granting any other relief as this Honorable Court sees fit.

This Court palpably erred by not issuing an Order (a) to curtail Defendant's repeated noncompliance with AO 1989-1, and (b) to compel Defendant to perform his clear legal duty, under AO 1989-1, to articulate, on the record, how the fair administration of justice required him to prohibit Plaintiff from recording pretrial proceedings and the trial related to the momentous prosecution and trial of Wolverine Watchmen Pete Musico, Joseph Morrison and Paul Bellar.

CONCLUSION

In this case, Defendant not only prohibited Plaintiff from filming and audio recording the Wolverine Watchmen's trial through the month of October of 2022. Defendant additionally precluded Plaintiff from filming and audio recording pretrial proceedings, where no jury was even present. Permitting the media to utilize their own, superior recording equipment to film and record pretrial court proceeding and jury trials does not equate to a clear and present danger to the fair administration of justice. The *Graves* Court Opinion cited above makes clear that media should be permitted to film and record jury trials, even during murder prosecutions.

Although the Wolverine Watchmen trial that Plaintiff should have been permitted to film has now concluded with guilty verdicts, Defendant's violations of AO 1989-1 are very capable of repetition, yet will likely evade review.

This court should intervene when faced with the indisputable evidence that Plaintiff has presented in this case, which clearly demonstrates that Defendant is snubbing his nose at this Court by utterly failing to comply with this the edicts found within AO 1989-1.

WHEREFORE, Plaintiff respectfully requests that this Court (a) issue a Writ of Superintending Control over Defendant that prohibits Defendant from any further noncompliance with Supreme Court Administrative Order 1989-1; and (b) issue a Permanent Injunction directing Defendant to cease his practice of issuing arbitrary and capricious denials when media access requests are submitted to film or record Defendant's court proceedings.

Respectfully submitted,

November 1, 2022

/s/ Eric L. VanDussen

Plaintiff in pro per

P.O. Box 30

Benzonia, MI 49616

(231) 651-9189

erickvandussen@gmail.com

EXHIBIT 1

STATE OF MICHIGAN
IN THE SUPREME COURT OF THE STATE OF MICHIGAN

ERIC L. VANDUSSEN,

Case No. 164847

Plaintiff,

v

JACKSON COUNTY 4TH CIRCUIT
COURT JUDGE THOMAS WILSON,

Defendant.

ERIC L. VANDUSSEN
Plaintiff in pro per
P.O. Box 30
Benzonia, MI 49616
(231) 651-9189
ericlvandussen@gmail.com

Hon. Thomas Wilson
Defendant
312 South Jackson Street - 4th Floor
Jackson, MI 49201
517-788-4380
twilson@mijackson.org

AFFIDAVIT OF ERIC L. VANDUSSEN

Plaintiff, Eric L. VanDussen, being sworn, says:

1. That I am the Plaintiff in this action and this accompanying affidavit is being filed pursuant to MCR 7.311(A)(1).
2. That Defendant denied my media access requests to film and record his court proceedings in violation of Michigan Supreme Court Administrative Order 1989-1
3. That all of the statements of fact and allegations made within this Affidavit and PLAINTIFF ERIC L. VANDUSSEN'S MOTION FOR RECONSIDERATION OF THIS COURT'S OCTOBER 12, 2022, ORDER & BRIEF IN SUPPORT are true and accurate, to the best of my knowledge and recollection.

4. That all of the statements of fact and allegations made within the flowing documents filed in this case are true and accurate, to the best of my knowledge and recollection:

- (A) EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT;
- (B) BRIEF IN SUPPORT OF EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT;
- (C) MOTION UNDER MCR 7.311(E) FOR IMMEDIATE CONSIDERATION OF EMERGENCY COMPLAINT FOR WRIT OF SUPERINTENDING CONTROL AND FOR ORDER TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE HELD IN CONTEMPT OF THE SUPREME COURT & BRIEF IN SUPPORT; and
- (D) MOTION FOR LEAVE TO FILE SUPPLEMENTAL PLEADINGS PURSUANT TO MCR 2.118(E).

Further affiant sayeth not.


Eric L. VanDussen

Subscribed and sworn to before me on November 1, 2022

My commission expires on 5/23/2028 
Deputy clerk/Notary public signature

Alire Bahar
Name (type or print)

Notary public, State of Michigan, County of Manistee. Acting in the County of Benzie.

EXHIBIT 2

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON

STATE OF MICHIGAN.

Plaintiff.

v

MUSICO, MORRISON, & BELLAR.

Defendant.

File No. 20-3173-FH, 20-
3172-FH, & 20-3171-FH

Hon. Thomas D. Wilson

FILED

SEP 20 2022

JACKSON COUNTY CLERK
4TH CIRCUIT COURT

ORDER DENYING ERIC VANDUSSEN'S MEDIA REQUEST

WHEREAS, the Court received a Request and Notice for Film and Electronic Media Coverage of Court Proceedings, for each file herein.

IT IS SO ORDERED, the request to film or record the Court proceedings is denied, as the proceedings will be broadcasted on YouTube.

Dated: September 20, 2022



Hon. Thomas D. Wilson (P42371)

Circuit Court Judge

EXHIBIT 3

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON

STATE OF MICHIGAN,

Plaintiff,

V

MUSICO, MORRISON, & BELLAR,

Defendant.

File No. 20-3173-FH, 20-
3172-FH, & 20-3171-FH

Hon. Thomas D. Wilson

ORDER DENYING ERIC VANDUSSEN'S MEDIA REQUEST

WHEREAS, the Court received a Request and Notice for Film and Electronic Media Coverage of Court Proceedings for each filed herein.

IT IS SO ORDERED, the request to film or record the Court proceedings is denied, as the proceedings will be broadcasted on YouTube so in court filming or recording is not necessary.

Dated: September 22, 2022



Hon. Thomas D. Wilson
Circuit Court Judge

FILED
SEP 22 2022
JACKSON COUNTY CLERK
4TH CIRCUIT COURT

EXHIBIT 4



Eric VanDussen <ericvandussen@gmail.com>

Transcript request re: Jackson CC Judge Thomas Wilson's proceedings on September 27, 2022

Eric VanDussen <ericvandussen@gmail.com>

Thu, Sep 29, 2022 at 9:07 AM

To: ttrans2001@comcast.net

Hello Theresa,

I left you a message but I thought I'd send you my request in writing.

I need to obtain expedited transcripts of all portions of Judge Thomas Wilson's court proceedings from September 27, pertaining to my two oral arguments that morning and the additional proceedings for Pete Musico, Joseph Morrison and Paul Bellar cases.

My expedited transcript request would include each instance in which I was engaged in oral arguments with Judge Wilson about whether I was going to be permitted to film in Judge Wilson's courtroom or in the hallway outside of Judge Wilson's courtroom. I think I initially went on record with Judge Wilson at approximately 9:30 AM and then a second time at approximately 10:45, or shortly after. I'm not sure what time the Musico, Morrison Bellar proceedings began after that, but I need those as well.

How soon can you get those transcripts completed?

Thanks.

Eric L. VanDussen
Videographer & Freelance Journalist
(231) 651-9189
<https://muckrack.com/eric-vandussen>
<http://vimeo.com/user1676477/videos>

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EXHIBIT 5

Order

Michigan Supreme Court
Lansing, Michigan

October 12, 2022

Bridget M. McCormack,
Chief Justice

164847 & (4)(9)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

ERIC L. VanDUSSEN,
Plaintiff,

v

SC: 164847

4TH CIRCUIT COURT JUDGE,
Defendant.

On order of the Court, the motion for immediate consideration is GRANTED. The complaint for superintending control is considered, and relief is DENIED, because the Court is not persuaded that it should grant the requested relief. The motion for leave to file supplemental pleadings pursuant to MCR 2.118(E) is DENIED.



s1011

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 12, 2022

Clerk

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EXHIBIT 6

STATE OF MICHIGAN
4TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF JACKSON

File No.:

Eric VanDussen

_____/

MOTION FOR RECONSIDERATION
BEFORE THE HONORABLE THOMAS D. WILSON, CIRCUIT COURT JUDGE
Jackson, Michigan - Tuesday, September 27, 2022

APPEARANCES:

ERIC VANDUSSEN
In Pro Per

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Kristin Novello, CER #9570
P.O. Box 21067
Lansing, Michigan 48909-1067

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PAGE

WITNESSES: DEFENDANT

OTHER MATERIAL IN TRANSCRIPT

EXHIBITS:

INTRODUCED

ADMITTED

None

1 Jackson, Michigan

2 Tuesday, September 27, 2022 - 10:08:36 a.m.

3 THE COURT: Okay.

4 MR. VANDUSSEN: So I understand, your Honor,
5 that I'm on 10:30, but my question is limited to right now
6 whether or not I'm allowed to film in the hallway, not
7 directed through the windows into the courtroom but just
8 film in the hallway. I don't wanna be in contempt of this
9 court by -- by doing that without prior authorization.

10 THE COURT: No filming. If you wanna go film
11 around the corner, I don't care.

12 MR. VANDUSSEN: In the hallway, not directed
13 in the -- in the courtroom.

14 THE COURT: What would be the purpose of
15 that?

16 MR. VANDUSSEN: Because the defendants that
17 are charged with proving material support to terrorism are -
18 - are in the hallway and if you uphold your orders
19 prohibiting me to film, this is the only video content I
20 will be able to obtain of the defendants in this matter.

21 THE COURT: No, that's not correct. I'm
22 gonna do what I do in any of these bigger trials, is there's
23 a video feed. All major news agencies and minor news
24 agencies can get in on that feed.

25 MR. VANDUSSEN: Okay, sir, so I understand

1 that those are gonna be arguments we're making at 10:30. My
2 inquiry is just as to whether or not I'm gonna be held in
3 contempt or if there's a problem with me filming in the
4 hallway, not into the courtroom.

5 THE COURT: Don't film anything right now.

6 MR. VANDUSSEN: Okay.

7 THE COURT: If -- after I hear arguments then
8 I'll --

9 MR. VANDUSSEN: Just for the Court's
10 attention, I did indicate to your law clerk that I would be
11 initially requesting that you reverse your denial of my
12 request to film today's proceedings based off of the same
13 arguments made in my motion -- emergency motion for
14 reconsideration that is gonna be addressed. So I guess I
15 would orally make that motion right now that I'm allowed to
16 film these proceedings pursuant to Supreme Court
17 Administrative Order 1989-1 and the requirement that this
18 Court provide on the record and articulate a particularized
19 justification for denying my camera in the courtroom today
20 to film these proceedings and how --

21 THE COURT: I'm telling you right now, you
22 film, you'll be in contempt of court.

23 MR. VANDUSSEN: Okay, I will see you at --
24 I'll see you at --(multiple speakers)-- okay -- all right.
25 Thank you, your Honor.

1 THE COURT: And we'll have the hearing at
2 that time.
3 (At 10:11:22 a.m., hearing concluded)

CERTIFICATION

This is to certify that the attached electronically recorded proceeding, consisting of six (6) pages, before the 4th Judicial Circuit Court, Jackson County, Michigan:

Eric VanDussen,

_____ /

Location: Circuit Court

Date: Tuesday, September 27, 2022

was held as herein appeared and that this is testimony from the original transcript of the electronic recording thereof, to the best of my ability.

I further state that I assume no responsibility for any events that occurred during the above proceedings or any inaudible responses by any party or parties that are not discernible on the electronic recording of the proceedings.

/s/ Kristin Novello
Kristin Novello, CER #9570
Certified Electronic Recorder

Dated: October 11, 2022

Theresa's Transcription Service, P.O. Box 21067
Lansing, Michigan 48909-1067 - 517-882-0060

EXHIBIT 7

STATE OF MICHIGAN
4TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF JACKSON

File No.:

ERIC VANDUSSEN

_____ /

MOTION FOR RECONSIDERATION
BEFORE THE HONORABLE THOMAS D. WILSON, CIRCUIT COURT JUDGE
Jackson, Michigan - Tuesday, September 27, 2022

APPEARANCES:

ERIC VANDUSSEN
In Pro Per

TRANSCRIBED BY: THERESA'S TRANSCRIPTION SERVICE
Kristin Novello, CER #9570
P.O. Box 21067
Lansing, Michigan 48909-1067

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PAGE

WITNESSES: DEFENDANT

OTHER MATERIAL IN TRANSCRIPT

EXHIBITS:

INTRODUCED

ADMITTED

None

1 Jackson, Michigan

2 Tuesday, September 27, 2022 - 11:23:58 a.m.

3 MR. VANDUSSEN: For the record, I am Eric
4 VanDussen representing myself and VanDussen Productions.
5 And may I approach, your Honor? What was your name?

6 UNIDENTIFIED SPEAKER: Scott (ph).

7 MR. VANDUSSEN: So your Honor, I got the
8 register of actions for all three of these cases, In the
9 Matter of Musico, Morrison, and Bellar yesterday and I went
10 through them and I found no protective orders that have been
11 issued by the Court related to these matters since it was
12 bound over. And secondly, all these entries from the docket
13 number that are listed here on the -- I guess -- additional
14 exhibit I presented to you are instances in which media
15 access requests were submitted to this Court and I count 13
16 of them and these proceedings were from -- what I gather
17 speaking to your clerk -- all streamed also on YouTube. The
18 majority of them are not available still on YouTube, they've
19 all been deleted.

20 Secondly, MLive has to my understanding
21 submitted a media access request regarding the trial that's
22 scheduled on October 3rd. I think it filed that on --

23 THE COURT: They submitted a request for only
24 two portions of the trial.

25 MR. VANDUSSEN: Okay, and this Court has not

1 denied their access is my understanding.

2 THE COURT: Well, they're gonna have -- we
3 are going to have live feeds that'll be out on YouTube.

4 MR. VANDUSSEN: So are you -- are you denying
5 MLive's request?

6 THE COURT: I haven't decided yet.

7 MR. VANDUSSEN: Okay. So if you go through -
8 -

9 THE COURT: In all likelihood, I very well
10 will unless -- because they should be able to get everything
11 right off of YouTube.

12 MR. VANDUSSEN: Does it --(multiple
13 speakers)-- okay, well the reason why that's germane to my
14 argument is because their -- all these requests of all of
15 them of this Court's proceedings, this -- I'm the only media
16 entity that has been denied throughout -- since these cases
17 were bound over and furthermore, the standard for denying --

18 THE COURT: We've only had one camera ever
19 set up.

20 MR. VANDUSSEN: And I will get to that, your
21 Honor. So I guess initially my request immediately would be
22 to take 30 seconds, set up my camera to record these
23 proceedings that I requested to film --

24 THE COURT: Absolutely not, I've already told
25 you.

1 MR. VANDUSSEN: Can I use my phone to audio
2 record the --(undecipherable)--

3 THE COURT: No.

4 MR. VANDUSSEN: Okay.

5 THE COURT: I'm gonna be barring all cell
6 phones, all media equipment from the courtroom. We were
7 having --

8 MR. VANDUSSEN: For trial you're saying?

9 THE COURT: Pardon?

10 MR. VANDUSSEN: No phones will be allowed in
11 the courtroom for trial?

12 THE COURT: They can -- as long as they're
13 turned off and in their pocket. If I see a cell phone, I'm
14 gonna seize it.

15 MR. VANDUSSEN: Okay, but they can come into
16 courtroom, they just can't -- they can't be used during the
17 trial?

18 THE COURT: Exactly.

19 MR. VANDUSSEN: Okay. So I would argue
20 initially that it's arbitrary and capricious for this Court
21 to not allow myself to film these proceedings when all these
22 other instances that I've noted on the exhibit I just handed
23 your Honor. Those individual media entities were not denied
24 and this is a similar proceeding and you also YouTube
25 streamed those proceedings and no denials --

1 THE COURT: I believe those were on -- I
2 don't know if we did YouTube or Zoom. Yeah, those were all
3 on Zoom.

4 MR. VANDUSSEN: Okay, so --

5 THE COURT: We're doing YouTube because if we
6 do Zoom, everybody's gotta be checked in and out.

7 MR. VANDUSSEN: Has -- has your Honor had an
8 opportunity to read my emergency motion for reconsideration?

9 THE COURT: Counsel, I'm familiar with your
10 motion.

11 MR. VANDUSSEN: Okay.

12 THE COURT: Go ahead and make your argument.

13 MR. VANDUSSEN: So my argument --

14 THE COURT: And speed it up --

15 MR. VANDUSSEN: -- as laid out -- initially
16 I'd like to address the standard that this Court has to
17 employ when determining whether or not the fair
18 administration of justice requires this Court to prohibit my
19 camera from recording this monumental trial. The standard
20 is not whether or not this Court is streaming simultaneously
21 on YouTube, which is a much degraded type of file -- digital
22 file -- than I'm proposing to utilize, which is a high-
23 definition, 4K video recording equipment with shotgun
24 microphones that picks up excellent audio recording. And I
25 would argue that -- did your Honor receive the draft copies

1 of the emergency complaint for writ of superintending
2 control that I submitted?

3 THE COURT: Yes and counsel --

4 MR. VANDUSSEN: Okay --

5 THE COURT: -- counsel -- or counsel -- I
6 referred to you as counsel, that's what I'm used to doing.
7 You cited 1989-1. I assume you looked at sub (2),
8 subparagraph (a)(4), "A trial judge's decision to terminate,
9 suspend, limit, or exclude film or electronic media coverage
10 is not appealable, by right or by leave."

11 MR. VANDUSSEN: It doesn't prohibit a motion
12 for reconsideration, so that's why I used that avenue after
13 you issued your written orders --

14 THE COURT: I just was under the
15 understanding that whatever I decide -- if I decide against
16 you -- you wanted to go up on appeal, and I'm just telling
17 you, have at it.

18 MR. VANDUSSEN: So -- so that's why an
19 original action for superintending control is the avenue
20 that I would have to take if this Court denies my motion
21 today for reconsideration. I understand that. So I sent on
22 Friday copies of the emergency motion draft that has not
23 been filed with the Supreme Court of my emergency motion --
24 or emergency complaint for writ of superintending control
25 along with a brief. And I've also prepared a motion for

1 immediate consideration to be filed with the Court. But on
2 -- on that draft -- on the -- on the complaint, the last
3 exhibit to the complaint -- that draft complaint, Exhibit
4 10, is a letter that Chief Justice Bridget McCormack wrote
5 to the U.S. House Committee on a judiciary on September 24,
6 2019 regarding cameras being prohibited from federal
7 courtrooms.

8 And the most relevant portion of her letter
9 is her articulation regarding admin -- Administrative Order
10 1989 -- 1989-1 where she says on page 2 quote, "Michigan
11 sets the standard in its Court Rule" -- which is 1989-1 --
12 "which puts the burden on those who oppose a camera in the
13 court to make a compelling case on the record as to why a
14 camera should not be allowed." And camera is plural. So
15 then if you look at the brief that I filed -- I haven't
16 filed, excuse me -- that I submitted to the Court as a
17 supplement, the emergency -- the brief regarding that has an
18 exhibit that -- I guess I'll go through 1989-1, excuse me,
19 your Honor.

20 So Admin Order 1989-1 mandates that quote,
21 "The following guidelines shall apply to film or electronic
22 media coverages -- coverage of proceedings in Michigan
23 courts." You jump down to section 2, sub (a) and then
24 little (i) and it says, "Film or electronic media coverage
25 shall be allowed upon request in all court proceedings."

1 And then jump down to double i -- little i -- "A judge may
2 terminate, suspend, limit, or exclude film or electronic
3 media coverage at any time upon a finding made and
4 articulated on the record in the exercise of the discretion
5 that the rule -- that the fair administration of justice
6 requires such action." And that's not the -- that's --
7 that's the relevant portion.

8 So when I submitted my media access request
9 to film today's hearing and the trial that's starting
10 October 3rd, I really issued two orders that just state that
11 this Court is streaming it on YouTube and therefore my
12 requests are being denied. So when you -- you look at the
13 plain language of the Admin Order of 1989-1, it's clear that
14 that does not satisfy that requirement of articulating how
15 the fair administration of justice would be adversely
16 affected by me having a camera recording these proceedings
17 right now. So -- so that's my first question.

18 And then if you jump forward to the -- the
19 additional exhibits that are attached to that supplemental -
20 - supplement I provided the Court, the brief portion, I cite
21 *VanDussen versus Court of Appeals*, which is a 2011 order
22 from the Michigan Supreme Court regarding a superintending
23 control complaint that I filed in 2011 against the Court of
24 Appeals. And in that instance, the court remanded it to the
25 Court of Appeals to quote, "We remand this case to the Court

1 of Appeals to articulate -- articulate the reason why quote,
2 'the fair administration of justice warrants the denial of
3 plaintiff's request to film oral arguments on May 10,
4 2011.'" And then they ordered the Court of Appeals to issue
5 an order explaining themselves by May 2, 2011, which was
6 shortly before that hearing I was trying to film.

7 And on May 2, 2011 -- Exhibit 2 in that draft
8 filing -- the Court of Appeals reversed its denial and
9 articulated on the record that -- why they were denying it,
10 because they never articulated why the fair administration
11 of justice would preclude me from filming the Court of
12 Appeals. Exhibit 3 -- in 1995, this individual, Jason
13 Graves (ph) went on trial with a co-defendant for the murder
14 of an individual in Oakland County. And in that case, it
15 went up on appeal and one of the appeal issues was that the
16 trial court had allowed -- in that double homicide
17 proceeding -- the trial court had permitted media to film
18 those murder case proceedings. And at that time -- and
19 that's People v Graves, it's an unpublished opinion, it's
20 Westlaw 33451697. It was issued March 30, 1999 and the COA
21 number is 191052.

22 And the Graves court (ph) opined that -- in
23 relevant part -- "--(undecipherable)-- conclude that
24 defendant has failed to establish that the presence of
25 cameras in the courtroom denied him a fair trial." And then

1 in -- also in relevant part if you jump down a little bit
2 further it says, "Accordingly, we find no abusive discretion
3 by the trial court." And that was for permitting in a
4 double homicide case, media access of their own cameras in
5 that courtroom.

6 And then in Detroit Free Press v Recorder's
7 Court Judge -- that's Exhibit 5 to that draft brief -- it's
8 unpublished. COA docket number 148956, issued February 11,
9 1992. That court held in pertinent part, "Generally film --
10 (undecipherable)-- shall be allowed in all court
11 proceedings. A judge may exclude film media coverage for
12 all the reasons I've previously articulated." The --
13 articulate -- then they say, "The trial court has failed to
14 articulate any valid reason for excluding on the record or
15 in the pleadings filed with the court. Prior to the
16 rendering a decision, you should -- that trial court should
17 have considered these different alternatives" -- that they
18 suggested --

19 THE COURT: Mr. VanDussen, I'm gonna stop you
20 right there because I've already told you that I'm not gonna
21 allow you to film. In the past when I have allowed a camera
22 in here, I have one camera that has a feed for anybody else
23 that wants to pick it up. In this particular matter, I've
24 already made arrangements for -- our IT department's gonna
25 be in here. We're gonna make sure that we've got a camera

1 that covers the attorneys, the defendants, their counsel,
2 that will be a live feed onto YouTube so that -- we've had
3 multiple media entries -- entities -- asking how they can
4 get access. They're all being told that YouTube would be
5 available for them, that it will pick up not only the
6 defendants, prosecution in this matter, counsel. Likewise,
7 a camera will be focused so that it picks up the witnesses
8 on the bench except for a couple of witnesses that the
9 camera will not be picking up because of their identities.

10 MR. VANDUSSEN: Has that been articulated in
11 a protective order that's been entered? Cause I have not
12 been able to find that in the register of actions.

13 THE COURT: If you interrupt me again --

14 MR. VANDUSSEN: I apologize, your Honor, I'm
15 sorry.

16 THE COURT: I wanna make sure you understand.
17 I've already told you a couple times and you keep doing it.

18 MR. VANDUSSEN: I apologize.

19 THE COURT: There will be a video feed for
20 all parties that want to observe this proceeding. They will
21 be able to get everything and we're also having this crew
22 come in to set it up so that we're gonna be able to get
23 clear photography of what's going on. Likewise, I don't
24 then have to worry about somebody picking up jurors in this
25 particular matter. If I allow cameras at different places

1 in the courtroom, I have no idea when somebody's gonna pick
2 up a juror as part of their filming. It's not gonna happen
3 in my courtroom. I'm making every effort to provide access
4 for media outlets. Not just your request, but other media
5 outlets, and to be able to observe the proceedings in this
6 matter. And your request is denied.

7 MR. VANDUSSEN: May i --

8 THE COURT: Okay, I'm gonna go ahead and
9 start up with this other stuff --

10 MR. VANDUSSEN: -- may i just address one
11 thing real briefly?

12 THE COURT: I've already told you, your
13 request is denied.

14 MR. VANDUSSEN: About filming in the
15 hallways. Is that a part of your order?

16 THE COURT: Filming in the hallways. If --
17 depending on who you're filming. If you film the jurors --

18 MR. VANDUSSEN: No, no, no, absolutely not.
19 I'm sorry -- I'm sorry.

20 THE COURT: As long as you don't try and film
21 in the -- through the windows, you -- if that camera is out
22 when the jurors are coming back and forth, even if you're
23 hanging it by your side, I have no way of knowing whether
24 you're picking up jurors. So if when jurors are coming back
25 and forth, I'll have your camera seized until I can observe

1 what's been photographed.

2 MR. VANDUSSEN: Understood, your --

3 THE COURT: That, you know, when we're taking
4 jurors in and out. Other than that, if you wanna photograph
5 the attorneys, people coming and going, I have no problem
6 with that.

7 MR. VANDUSSEN: Thank you, your Honor. Will
8 you be issuing an order denying my motion for
9 reconsideration?

10 THE COURT: As soon as I get time, I will.

11 MR. VANDUSSEN: Okay. Thank you, your Honor.

12 (AT 11:41:10 a.m., hearing concluded)

CERTIFICATION

This is to certify that the attached electronically recorded proceeding, consisting of fifteen (15) pages, before the 4th Judicial Circuit Court, Jackson County, Michigan:

ERIC VANDUSSEN

_____ /

Location: Circuit Court

Date: Tuesday, September 27, 2022

was held as herein appeared and that this is testimony from the original transcript of the electronic recording thereof, to the best of my ability.

I further state that I assume no responsibility for any events that occurred during the above proceedings or any inaudible responses by any party or parties that are not discernible on the electronic recording of the proceedings.

/s/ Kristin Novello
Kristin Novello, CER #9570
Certified Electronic Recorder

Dated: October 11, 2022

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